SBCivil Writ Petition No.5596/2004

Bachhu Bhai Jani
Vs.
State of Rajasthan & Anr.

Date of Order :: 22nd August, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rakesh Arora, for the petitioner.
Mr. Rajesh Joshi, for the respondents.

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The petitioner, a retired employee of Municipal Board, Abu Road, preferred this petition for writ giving challenge to the date appointed for application of pension for municipal employees under the Rajasthan Municipal Service (Pension) Rules, 1989 (hereinafter referred to as “the Rules of 1989”). Rule 4 of the Rules of 1989 prescribes that these Rules shall not apply to employees retired before 1.10.1987 or working on part time/work charged/contract/deputation basis. The petitioner being retired prior to 1.10.1987 is not entitled for getting pension under the Rules of 1989. The challenge is give to the date appointed being discriminatory and arbitrary.

The controversy involved in this petition for writ as a matter of fact stands decided by this Court as well as by Hon'ble Supreme Court in various cases. In the case of Leeladhar v. State, SBCivil Writ Petition No.5026/1992, decided on 17.4.2001, this

Court while dealing with the same controversy held as under:-

> "The controversy involved in this case is whether a person who has retired prior to the date of commencement of a Pension Scheme can be held entitled for pension unless the Scheme itself provides for retrospective application.
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> A Division Bench of this Court in Rajasthan Nagar Palika Seva Karamchari Sangh v. State of Rajasthan, decided on 26.2.1991 held that the Pension Scheme shall be applicable on all persons even if they had retired prior to the date of commencement of the Pension Scheme and the notification regarding the pension issued by the State has been declared discriminatory. However, another Division Bench of this Court in Association of Retired Employees of Municipal Council, Jodhpur v. State of Rajasthan and ors., D.B.C.Writ Petition No.854/88, decided on 6.7.1992 held that the aforesaid judgment dated 26.2.1991 was per incuriam and Pension Scheme shall not apply to those persons who had retired prior to the date of its commencement as the Scheme shall not be applicable with retrospective effect.
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> Even entitlement of family pension has been rejected by this Court in S.B.Civil Writ Petition No.821/94, Smt. Mahalaxmi Bai and ors. v. State of Rajasthan and ors., decided on 6.4.1999 and S.B.Civil Writ Petition No.5668/93, Ichhalal and ors. v. State of Rajasthan, decided on 18.8.2000."

The judgment referred above gives reference of other similar matters also wherein this controversy was considered by this Court as well as by Hon'ble Supreme Court. It is now well settled that cut off date fixed for application of pension scheme under the Rules of 1989 is neither discriminatory nor arbitrary.

Accordingly, this petition for writ fails and the same, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.